

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
CASHMAN DREDGING AND)	
MARINE CONTRACTING CO., LLC,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 1:21-cv-11398-DJC
)	
FRANK BELESIMO)	
and)	
CALLAN MARINE, LTD.,)	
)	
Defendants.)	
_____)	

PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, Cashman Dredging and Marine Contracting Co., LLC (“CDMC”), moves for the entry of a preliminary injunction pending a full adjudication on the merits of the case, ordering that Defendants Frank Belesimo (“Belesimo”) and Callan Marine, Ltd. (“Callan” and collectively, “Defendants”) and all those acting in active concert with Defendants:

1. Must immediately return all trade secrets and intellectual property, and any and all copies thereof, including but not limited to as many as 30,000 computer files containing designs and specifications for a new hopper dredge, bid estimating data, market survey data and other confidential and proprietary materials which CDMC expended millions of dollars to develop (the “Trade Secrets”) that Belesimo transferred from CDMC’s computer systems, and/or disclosed to Callan and/or are otherwise in the possession, custody or control of Defendants all as described more fully in the affidavits and memorandum of law files in support hereof;

2. Must submit for examination all computers, hard drives, devices, networks, media, files and/or any other repository capable of storing data to determine whether CDMC's Trade Secrets are currently or have ever been stored, transported, or transferred thereon, whether owned, controlled, or maintained by Belesimo or Callan, by a forensic examination expert(s) of CDMC's selection and direction, with all costs to be borne by Defendants, within ten (10) days of entry of the order.

3. Are enjoined from using, accessing, examining, copying, modifying, reproducing, republishing, distributing, transferring, communicating, divulging or making accessible to anyone outside of CDMC the Trade Secrets.

In support of this motion, CDMC submits the accompanying Memorandum of Law and Affidavit of David Sun, and incorporates by reference the Complaint and the Affidavits of Jay Cashman and Dale Pyatt, attached to the Complaint as Exhibits 3 and 4, respectively, and states that (a) CDMC has a substantial likelihood of success on the merits of the claims against the Defendants; (b) that CDMC will be irreparably harmed if the injunctive order is not granted; (c) the hardship that will befall CDMC if the injunctive order is not granted far exceeds any harm that may befall Defendants; and (d) granting the injunctive order will not negatively impact the public interest but instead will promote public confidence in trade secret and intellectual property rights afforded by federal and Massachusetts law.

WHEREFORE, Plaintiff CDMC respectfully requests that the Court issue an order pursuant to Rule 65 granting a preliminary injunction and that the Court grant such further and additional relief as the Court deems just and proper.

LOCAL RULE 7.1(A)(2) CERTIFICATION

I, Jeffrey E. Francis, counsel for Plaintiff Cashman Dredging and Marine Contracting, Co., LLC hereby certify that on August 25, 2021, I sent two letters by FedEx Priority Overnight to the President and CEO of Defendant Callan Marine Ltd. enclosing the Complaint in this matter and asking for the identity of Defendants' counsel so that counsel could confer in good faith. Having received no reply, the parties have been unable to resolve or narrow the issues.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d), Plaintiff Cashman Dredging and Marine Contracting Co., LLC believes that oral argument will assist the Court and wishes to be heard. Plaintiff therefore requests oral argument on this Motion.

By its counsel,

/s/ Jeffrey E. Francis

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Dated: August 31, 2021

CERTIFICATE OF SERVICE

I hereby certify that on this date, August 31, 2021, this document was filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

By: /s/ Jeffrey E. Francis

Jeffrey E. Francis (BBO No. 639944)